

## **BILL ANALYSIS**

C.S.H.B. 64  
By: Craddick  
Special Purpose Districts  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have raised concerns regarding the legal liability of the Midland County Fresh Water Supply District No. 1. C.S.H.B. 64 seeks to clarify this issue.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 64 amends the Special District Local Laws Code to establish that the Midland County Fresh Water Supply District No. 1 is a governmental unit under the Texas Tort Claims Act and that the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of the act. The bill makes the district, a district supervisor, or a district employee not liable for damages arising out of the performance of a governmental function of the district, except as provided by the act. The bill establishes that the common law doctrine of vicarious liability because of participation in a joint enterprise does not impose liability on the district or a municipality that contracts with the district for a claim brought under the act. The bill specifies that venue for an action brought against the district is in Midland County.

C.S.H.B. 64 provides for the validation, ratification, and confirmation of certain district actions and proceedings taken before the bill's effective date relating to the selection of the district as the developer of the T-Bar Ranch water supply and the associated construction necessary for delivery of water from the T-Bar Ranch to the City of Midland. The bill also provides for the validation of certain district agreements and certain obligations issued by the district.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 64 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Subtitle B, Title 6, Special District Local Laws Code, is amended by adding Chapter 6909 to read as follows:

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subtitle B, Title 6, Special District Local Laws Code, is amended by adding Chapter 6909 to read as follows:

83R 17397

13.81.400

Substitute Document Number: 83R 6881

CHAPTER 6909. MIDLAND COUNTY  
FRESH WATER SUPPLY DISTRICT NO.  
1  
SUBCHAPTER A. GENERAL  
PROVISIONS

Sec. 6909.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Midland County Fresh Water Supply District No. 1.

Sec. 6909.002. TORT LIABILITY. (a) The district is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of that chapter.

(b) The district, a director, or a district employee is not liable for damages arising out of the performance of a governmental function of the district, except as provided by Chapter 101, Civil Practice and Remedies Code.

Sec. 6909.003. NO LIABILITY FOR JOINT ENTERPRISE. The common law doctrine of vicarious liability because of participation in a joint enterprise does not impose liability on the district or a municipality that contracts with the district for a claim brought under Chapter 101, Civil Practice and Remedies Code.

Sec. 6909.004. MANDATORY VENUE. Venue for an action brought against the district is in Midland County.

SECTION 2. (a) All governmental and proprietary actions and proceedings of the Midland County Fresh Water Supply District No. 1 taken before the effective date of this Act are validated, ratified, and confirmed in all respects as of the dates on which they occurred.

(b) All agreements between the Midland County Fresh Water Supply District No. 1 and the City of Midland are validated as of the dates on which they occurred.

CHAPTER 6909. MIDLAND COUNTY  
FRESH WATER SUPPLY DISTRICT NO.  
1  
SUBCHAPTER A. GENERAL  
PROVISIONS

Sec. 6909.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of supervisors.
- (2) "District" means the Midland County Fresh Water Supply District No. 1.
- (3) "Supervisor" means a board member.

Sec. 6909.002. TORT LIABILITY. (a) The district is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of that chapter.

(b) The district, a supervisor, or a district employee is not liable for damages arising out of the performance of a governmental function of the district, except as provided by Chapter 101, Civil Practice and Remedies Code.

Sec. 6909.003. NO LIABILITY FOR JOINT ENTERPRISE. The common law doctrine of vicarious liability because of participation in a joint enterprise does not impose liability on the district or a municipality that contracts with the district for a claim brought under Chapter 101, Civil Practice and Remedies Code.

Sec. 6909.004. MANDATORY VENUE. Venue for an action brought against the district is in Midland County.

SECTION 2. (a) All governmental and proprietary actions and proceedings of the Midland County Fresh Water Supply District No. 1 taken before the effective date of this Act relating to the selection of the district as the developer of the T-Bar Ranch water supply and the associated construction necessary for delivery of water from the T-Bar Ranch to the City of Midland are validated, ratified, and confirmed in all respects as of the dates on which they occurred.

(b) All agreements between the Midland County Fresh Water Supply District No. 1 and the City of Midland are validated as of the dates on which they occurred.

(c) All revenue refunding bonds, revenue notes, or other obligations issued by the district are validated as of the dates on which they were issued.

(d) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

(c) All revenue refunding bonds, revenue notes, or other obligations issued by the district are validated as of the dates on which they were issued.

(d) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

SECTION 3. Same as introduced version.